

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BYRON GLEN MIDKIFF, JR.,

Petitioner(s),

v.

SCOTT SPEER,

Respondent(s).

CASE NO. C25-5020-KKE

ORDER

The Court, having reviewed the Report and Recommendation of Magistrate Judge David W. Christel, objections to the Report and Recommendation,<sup>1</sup> and the remaining record, does hereby find and ORDER:

(1) The Court adopts the Report and Recommendation.

(2) Petitioner's federal habeas Petition is dismissed without prejudice for failure to exhaust state court remedies in accordance with 28 U.S.C. § 2254(b)–(c).

(3) Petitioner's motion to proceed *in forma pauperis* and all proposed motions and requests are denied as moot.

(4) A certificate of appealability is denied in this case.

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<sup>1</sup> On February 12, 2025, Petitioner filed objections to Judge Christel's report and recommendation. *See* Dkt. No. 10. No responses to Petitioner's objections have been filed. The Court considered Petitioner's objections and finds that they do not demonstrate any defect in the report and recommendation. Again, Petitioner fails to show that he exhausted his state court remedies, as required to pursue federal habeas review. Therefore, the Court overrules Petitioner's objections.

1 (5) The Clerk is directed to send copies of this Order to Petitioner and to the Hon.  
2 David W. Christel.

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4 Dated this 28th day of February, 2025.

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7 Kimberly K. Evanson  
8 United States District Judge  
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